



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Caroline Haskins
MuckRock News
DEPT MR 72707, 411A Highland Ave
Somerville, MA 02144-2516

MAY 08 2019

Re: FOIA-2019-00810
Aggregated Requests

Dear Ms. Haskins:

This is in response to your Freedom of Information Act (FOIA) request dated May 3, 2019, seeking access to:

- all correspondence between the Federal Trade Commission and the companies listed below from January 1, 2016 to present;
- all complaints related to the companies below filed between January 1, 2016 to present;
- all minutes and documents related to Federal Trade Commission cases and proceedings that involve the companies below; and
- all merger review documents that involve:
 - Halliburton
 - Schlumberger
 - Informatica Corp.
 - SAP SE
 - Oracle Corp.
 - Accenture PLC
 - IBM Corp.
 - EMC Corp.
 - Microsoft Corp.¹
 - Tata Consultancy Services

With regard to all of the companies listed above, the FTC can neither confirm nor deny that it has any records responsive to this request, because to do either would reveal information that is itself exempt from public disclosure under Exemption 7(A) of the FOIA, 5 U.S.C. § 552(b)(7)(A). Therefore, at present I can only advise that even if the records you seek exist, they would be protected under this FOIA exemption. I stress that you should not read this letter as an indication that responsive records do or do not exist. We issue this response to all similar requests.

¹ There were 165,982 responsive complaints for this company during the time period listed. Due to its volume, we were unable to provide a copy of these complaints in Excel form because it would pose an undue burden on the agency. *See Ayuda, Inc. v. FTC*, 70 F. Supp. 3d 247, 276-77 (D.D.C. 2014).

If disclosure of information could reasonably be expected to interfere with law enforcement proceedings, Exemption 7(A) authorizes agencies to withhold it. The FTC's investigations are generally nonpublic. A reply that affirms whether responsive records do or do not exist would tacitly reveal whether the FTC has an investigatory interest in the subjects of a given FOIA request. Such acknowledgment could prematurely disclose the existence of nonpublic matters and thereby interfere in an ongoing investigation (*e.g.*, by alerting potential subjects or witnesses to the existence of an investigation, leading to the concealment or destruction of evidence). Accordingly, unless the records sought under FOIA relate to a publicly acknowledged investigation, we must withhold any information that might indicate whether investigatory records about a given subject exist or do not exist, pursuant to Exemption 7(A).

Moreover, to the extent any responsive documents exist related to the aforementioned companies that may have been submitted in connection with the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a(a)-(j), they would be exempt from disclosure 15 U.S.C. 18a(h) and 5 U.S.C. 552(b)(3). Therefore, we are denying that portion of your request.

A search of our consumer complaint database for records responsive to your request located the following total number of complaints for each company from January 1, 2016 to May 7, 2019:

- Halliburton
- Schlumberger
- Informatica Corp.
- SAP SE
- Oracle Corp.
- Accenture PLC
- IBM Corp.
- EMC Corp.
- Microsoft Corp.
- Tata Consultancy Services

Please find accompanying Microsoft Excel spreadsheets attached. FOIA Exemption 6 protects information the release of which would result in a clearly unwarranted invasion of personal privacy. For this exemption to apply there must be a substantial privacy interest in the information in question that outweighs any corresponding public interest in its disclosure.

Consumers have a substantial privacy interest in protecting information that they submit to the agency where the information could reasonably be expected to identify the consumers. Consumer complaints include individuals' names, addresses, telephone numbers, and other identifying information. Public disclosure of such information may result in reputational, economic, and other harms for consumers identified as FTC complainants. Because disclosure would pose a risk of consumer harms and reveal little or nothing about the agency's own conduct, we conclude that the privacy interests outweigh any public interest in the disclosure of identifying information in this case.



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Moreover, we are withholding in full all consumer comments in the complaint records. "Comment" data fields are populated entirely at the discretion of consumers, and the resulting narratives often include personal and identifying information that is exempt from public disclosure. When a record includes exempt and non-exempt information, the agency will take "reasonable steps" to "segregate and release nonexempt information." 16 C.F.R. § 4.11 (a)(1)(iii)(A). But when doing so would impose an *unreasonable* burden on the agency, the agency need not segregate nonexempt information and may instead withhold the information in full.² Manually reviewing hundreds or even thousands of consumer comments would constitute an undue burden on the agency.

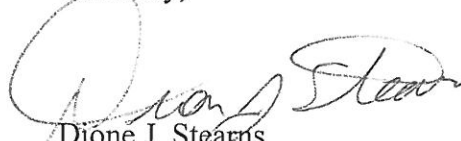
Your request did not indicate an agreement to pay any fees associated with the processing of your request. However, the Commission's fee regulations specify that fees less than \$25 will be waived. *See* 16 C.F.R. § 4.8(b)(4). Because the fees associated with the processing of your request did not exceed \$25, we have processed your request free of charge. In the future, please provide a fee agreement to facilitate the processing of your request.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, within 90 days of the date of this letter or via email, FOIAAppeal@ftc.gov. Please enclose a copy of your original request and a copy of this response. If you believe that we should choose to disclose additional materials beyond what the FOIA requires, please explain why this would be in the public interest.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or email at rgold@ftc.gov; or from the Office of Government Information Services via email at ogis@nara.gov, via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

If you have any questions about the way we handled your request or about the FOIA regulations or procedures, please contact Kamay Lafalaise at 202-326-3780.

Sincerely,



Dione J. Stearns
Assistant General Counsel

² *See Ayuda, Inc. v. FTC*, 70 F. Supp. 3d 247, 276-77 (D.D.C. 2014).